

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

HILAL K. HOMAIDAN,  
on behalf of himself and  
all others similarly situated,

Plaintiff,

v.

SALLIE MAE, INC.,  
NAVIENT SOLUTIONS, LLC, and  
NAVIENT CREDIT FINANCE CORPORATION,

Defendants.

No. 19-cv-00935-FB

MOTION OF DEFENDANTS  
(A) TO CERTIFY BANKRUPTCY COURT ORDER FOR DIRECT  
APPEAL OR, IN THE ALTERNATIVE, (B) FOR LEAVE TO APPEAL  
INTERLOCUTORY ORDER AND (C) TO STAY BRIEFING SCHEDULE

Defendants Navient Solutions, LLC, Navient Credit Finance Corporation, and Sallie Mae, Inc. (collectively, “Defendants”), hereby move the Court (a) under 28 U.S.C. § 158(d) and Bankruptcy Rules<sup>1</sup> 8004 and 8006 for certification to the United States Court of Appeals for the Second Circuit (the “Second Circuit”) of a direct appeal of the *Memorandum Decision and Order on the Defendants’ Motion to Dismiss the Complaint* entered in in the adversary proceeding of Homaidan v. Sallie Mae, Inc., No. 17-ap-1085-ess (Bankr. E.D.N.Y.) on January 31, 2019, Adv. Dkt. Nos. 103, 104 (collectively, the “Denial Order”) or, in the alternative, (b) under 28 U.S.C. § 158(a) and Bankruptcy Rule 8004 for leave to appeal the interlocutory Denial Order to this Court, and (c) to stay the briefing schedule set in this bankruptcy appeal.

---

<sup>1</sup> “Bankruptcy Rules” as defined herein means the Federal Rules of Bankruptcy Procedure.

Defendants set forth the grounds for this Motion in their contemporaneously filed Memorandum in Support of Motion of Defendants (A) to Certify Bankruptcy Court Order for Direct Appeal or, in the Alternative, (B) for Leave to Appeal Interlocutory Order and (C) to Stay Briefing Schedule (the “Memorandum of Law”).

For the reasons described in Defendants’ Memorandum of Law, Defendants request that the Court enter the proposed order attached thereto as Exhibit B and stay the briefing schedule pending the Court’s decision on the Motion and any subsequent proceedings in the Second Circuit, if applicable.

Dated: March 22, 2019  
New York, New York

Respectfully submitted,

/s/ Shawn R. Fox

Shawn R. Fox  
McGuireWoods LLP  
1251 Avenue of the Americas, 20th Floor  
New York, New York 10020-1104  
Telephone: 212.548.2100  
Email: sfox@mcguirewoods.com

—and—

Thomas M. Farrell (*pro hac vice*)  
McGuireWoods LLP  
JPMorgan Chase Tower  
600 Travis Street, Suite 7500  
Houston, Texas 77002  
Telephone: 713.571.9191  
E-mail: tfarrell@mcguirewoods.com

—and—

Dion W. Hayes (*pro hac vice*)  
K. Elizabeth Sieg (*pro hac vice*)  
McGuireWoods LLP  
Gateway Plaza  
800 East Canal Street  
Richmond, Virginia 23219  
Telephone: 804.775.1000  
Facsimile: 804.775.1061  
Email: dhayes@mcguirewoods.com  
bsieg@mcguirewoods.com

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that on this 22nd day of March, 2019, I filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send a notification of such filing to all counsel of record.

/s/ Shawn R. Fox